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December 30, 2005

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd floor
Boston, MA 02202

Re: Bay State Gas Company, D.T.E. 05-27

Dear Ms. Cottrell:

Enclosed please find the Opposition of Bay State Gas Company to the Attorney General's Motion for Reconsideration.

Very truly yours,

Robert L. Dewees, Jr.

RLD/tlm
Enclosure

cc: Caroline O'Brien Bulger, Esq., Hearing Officer
A. John Sullivan (7 copies)
Andreas Thanos, Assistant Director, Gas Division
Alexander Cochis, Assistant Attorney General (4 copies)
Paul R. Osborne, Assistant Director, Rates & Revenue Requirements Division
Andrew O. Kaplan, General Counsel
Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

BAY STATE GAS COMPANY

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D.T.E. 05-27

**OPPOSITION OF BAY STATE GAS COMPANY
TO THE ATTORNEY GENERAL'S
MOTION FOR RECONSIDERATION**

On December 20, 2005, the Attorney General filed a Motion for Reconsideration of the portion of the decision of the Department of Telecommunications and Energy (the "Department") in this proceeding that allows Bay State Gas Company ("Bay State" or the "Company") to recover costs of the Metscan meter reading devices that have been retired. Motion, p. 1.

Bay State opposes the Attorney General's Motion.

The Attorney General argues that the Department's treatment of the Metscan devices results in "double counting" where customers are "paying twice" for meter reading service, once for the retired Metscan meter reading devices and once for the new Itron wireless meter reading devices. Motion, pp. 1, 2. He, therefore, asks the Department to reconsider its Order and deny the recovery of all Metscan costs.

The Attorney General is attempting to reargue an issue considered and decided in the main case. In his initial brief, the Attorney General made the same argument that if the Department permitted Bay State to recover its Metscan costs, ratepayers would be "paying twice", resulting in "a double collection". AG Initial Brief, p. 90; Order, p. 196. That position

was not adopted in the Order, and therefore reconsideration is not appropriate. See Commonwealth Electric Company, D.P.U. 92-3C-1A (1995) pp. 3-6.

The Attorney General argues that the Department's treatment of vehicle lease expenses in a Western Massachusetts Electric Company rate order should be followed for the Metscan costs. Motion, p. 2, citing Western Massachusetts Electric Company, D.P.U. 85-270 (1986) pp. 180-183. In that case, after the close of the test year the company replaced 100 of the vehicles it owned with leased vehicles. The issue was whether a post test year adjustment to rate base should be made to remove the company-owned vehicles from rate base to avoid a double counting of vehicle expense. The Department found that "in this particular situation" it would deviate from its standard of not making post test year adjustments to rate base and remove the company-owned vehicles from rate base. Id. pp. 182-183.

However, the facts of the vehicle leases in that case are not analogous to the Metscan and Itron costs in this proceeding. In D.P.U. 85-270, the method of financing a certain number of vehicles was being changed from rate base treatment to a lease arrangement. Here, there was a major change in meter reading technology from the wireline Metscan technology to the new wireless Itron technology. The Metscan technology operated for almost a decade, but then became obsolete and was replaced by the superior Itron technology. Exh. BSG/SHB-1, p. 45; Order, pp. 194-195, 198. It was therefore necessary for Bay State to retire the older meter reading technology and invest in new technology. The circumstances of the vehicle leases in D.P.U. 85-270 can be distinguished from the facts of the replacement of the Metscan devices by the Itron devices, and therefore the Department's order in D.P.U. 85-270 is inapplicable here.

In situations similar to the replacement of the Metscan devices with Itron devices, the Department has determined that it will not penalize a company for its prudent investment in

technology that was used and useful at one time but which has become stranded or obsolete as a result of new technology. For example, the Department did not disallow and remove from rate base redundant copper interoffice cable when there was ample new fibre capacity available, because to do so would discourage utilities from making optimal investments in new technology. New England Telephone and Telegraph Company, D.P.U. 94-50 (1995) p. 300. In another situation, technological improvements caused Centrex systems to be replaced by Private Branch Exchanges (“PBXs”). The Department found that the Centrex investments had become stranded and no longer used and useful, but since the investments were prudent when made, it permitted amortization of the undepreciated Centrex investment over a reasonable period. New England Telephone and Telegraph Company, D.P.U. 86-36-G (1989) pp. 42, 44. The position advocated by the Attorney General with respect to the Metscan technology, if adopted by the Department, would create a disincentive for all utilities to retire outdated technology and invest in new and more efficient technology.

In addition, the Attorney General apparently misunderstands the amortization of the Metscan lease cost proposed by Bay State and allowed by the Department. The Attorney General incorrectly claims that the Department has treated the “net present value of future lease payments as a rate base item” Motion, p. 3, fn. 1.

The Department allowed three related Metscan adjustments. The undepreciated Metscan plant investment was amortized without a return over the 10-year PBR term. The early termination and buyout payment for the lease of Metscan devices with Fleet Capital Leasing was amortized over the 10-year PBR term. The Department did not treat the lease as a rate base item, as alleged by the Attorney General, but allowed the amortization of the lease buyout amount as an expense. Order, pp. 195, 200, citing Exh. BSG/JES-3. Finally, the Department allowed the

removal of the Metscan lease payment from test year operation and maintenance expense. This lease payment was larger than the combined amortizations of the undepreciated plant balance and the lease buyout amount. Order, p. 200; Exh. BSG/JES-1, pp. 35-36; Exh. BSG/JES-3.

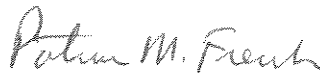
The Attorney General argues that if the Department does not alter its treatment of Metscan costs, it “must explain” the application of the used and useful standard, which is typically used for rate base items, to the Metscan meter reading devices. Motion, p. 3. No such explanation is necessary. The Department determined that Bay State’s investment in the Metscan devices was prudent and that the devices were used and useful for nearly a decade. Order, p. 198. Certain of the devices were included in utility plant and others were leased. Therefore, two separate amortizations were required, one for the undepreciated plant and one for the lease termination amount. It is not unusual for the Department to use somewhat different ratemaking approaches for utility assets depending on how those assets are financed. Massachusetts-American Water Company, D.P.U. 95-118 (1996) pp. 42, 78 (project financing of a water treatment plant resulted in a lease expense not rate base treatment but the Department applied a prudent, used and useful analysis). Since the Department did not treat the Metscan lease buyout payment as a rate base item, the Attorney General’s argument that the Metscan lease and “all other leases” must be included in the Company’s capital structure should be rejected. Motion, p. 3, fn. 2.

For the foregoing reasons, the Attorney General’s Motion for Reconsiderations should be denied.

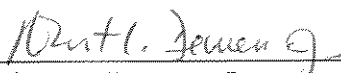
Respectfully submitted,

BAY STATE GAS COMPANY

By its attorneys,



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DATED: December 30, 2005

CERTIFICATION

I certify that I served today a copy of the attached Opposition of Bay State Gas Company to the Attorney General's Motion for Reconsideration by hand delivery, first class mail postage prepaid or electronically on the Department of Telecommunications and Energy and all parties on the service list on file with the Secretary of the Department of Telecommunications and Energy for this proceeding.

Dated at Boston, Massachusetts this 30th day of December, 2005



Robert L. Dewees, Jr.